

Revisions suggested by JONWRM to language proposed by SCWA's Attorney (SSS Draft of 6-11-03) re:

Recycled Water Provisions

(Based on comments received from WAC at June 23, 2003 Negotiation Session and meeting of July 22 with Randy Poole and Steve Shupe.)

1.1 New Definition

() "recycled water" means wastewater treated to ~~secondary or tertiary~~ applicable standards ~~or higher~~ set forth in Title 22 of the California Code of Regulations, Division 4 Environmental Health, as may be amended from time to time.

() "recycled water project" means any project placed into service after July 1, 1999 that provides recycled water and (1) results in a reduction in use of water from the transmission system or (2) results in a reduction in the diversion of water from the Russian River or any of its tributaries.

() "local supply project" means a project undertaken and owned by one or more water contractors whose principal purpose is to reduce demand on the transmission system during the peak demand summer months.

1.2 Recital of Purposes

Among the purposes of this agreement are to provide a water supply or a supplemental water supply for each of the water contractors, to encourage water conservation and recycled water use, to provide environmental improvements and enhancements to allow for sustainable and continued use of Russian River Project water, to encourage the development of local projects to offset potable water use, to protect water quality, and to provide for payment to the Agency for water delivered hereunder sufficient to enable it to pay the capital costs of major replacements and additions to the Transmission System and to meet its obligations on the Revenue Bonds and its expenses of operating and maintaining the Transmission System and carrying out the activities authorized hereunder.

1.13 Recycled Water and Local Supply Project Requirements

Within ~~five~~ ten (10) years from the date of this Agreement, the water contractors shall carry out or participate in recycled water or local supply projects capable of delivering recycled water or developing new or expanded local supply projects sufficient to reduce the water contractors' collective deliveries from the Transmission System by at least 7,500 acre-feet per year ~~five percent (5%)~~, with at

least 50% of such reduction resulting from recycled water projects. ~~If the Agency reasonably determines that the water contractors have not met the five percent (5%) goal in any calendar year, based upon a trend analysis that normalizes annual differences in weather and hydrology, the Agency shall assess a penalty against all water contractors in the next fiscal year equal to ten percent (10%) of the Operation and Maintenance Charge for that fiscal year. The proceeds from the assessment of such a penalty shall be placed in the Recycled Water Fund.~~

4.17 Recycled Water/Local Supply Charge; Recycled Water/Local Supply Fund

In addition to the other charges provided by this part, each water contractor shall pay a Recycled Water/Local Supply Charge. The Recycled Water/Local Supply Charge shall be a uniform charge of twenty-five (\$25.00) per acre-foot and shall be paid by all regular customers or Russian River Customers for all water taken from the Transmission System or under the Agency's water rights. As part of the annual budget process, the Agency shall review the adequacy of the Recycled Water/Local Supply Charge and, subject to approval of the Water Advisory Committee, may increase or decrease the charge for the ensuing fiscal year. The Agency shall use its best efforts to modify existing contracts as necessary to effect payment of the Recycled Water/Local Supply Charge by other Agency customers and Russian River Customers. Monies collected from the Recycled Water/Local Supply Charge shall be placed in a Recycled Water/Local Supply Fund created by the Agency. ~~Notwithstanding anything to the contrary in this section, t~~The aggregate amount of money to be received by the Agency from the Recycled Water/Local Supply Charge for each fiscal year shall be sufficient to produce water sale revenues to cover the Agency's estimate of: (1) ~~the capital and operation and maintenance costs of recycled water or local supply projects funded pursuant to section 2.6(a) of this agreement,~~ (2) the capital, operation and maintenance costs for recycled water projects constructed, acquired and operated ~~or the acquisition of recycled or reclaimed water or the rights thereto pursuant to section 2.6(b) of this agreement and~~ (3) the costs of agreements for the acquisition and sale of recycled water (or the rights to recycled water) authorized pursuant to said section 2.6(b). ~~, including a reasonable allowance for usual contingencies and errors in estimation, and to accumulate and maintain a prudent reserve in an amount determined from time to time by the Water Advisory Committee. The Recycled Water Fund shall be used only to pay or partially pay for the capital and operation and maintenance costs of recycled water projects or the acquisition of recycled or reclaimed water or the rights thereto pursuant to section 2.6 of this agreement.~~ With the approval of the Water Advisory Committee, the Agency may transfer funds from the operations and maintenance fund to assist in the construction, acquisition, funding, or operation and maintenance of recycled water projects.

2.6 Recycled Water and Local Supply Projects

(a) With the approval of the Water Advisory Committee, the Agency may fund or partially fund the capital cost of any recycled water or local supply project carried out, sponsored by, or participated in by one or more water contractors. The Water Advisory Committee shall identify, prioritize, and approve recycled water or local supply projects that will meet the recycled water/local supply project requirements set forth in section 1.13 of this agreement, ~~and. The Agency and the water contractors~~ shall seek financial contributions for recycled water and local supply projects funded under this subsection 2.6(a) from benefited wastewater treatment plant owners and other benefited parties. Projects funded or partially funded by the Agency under this subsection shall not be part of the Transmission System, and the operation and maintenance cost of such projects shall be the responsibility of the water contractors carrying out, sponsoring, or participating in such projects.

(b) ~~Subject to~~ With the approval of the Water Advisory Committee, the Agency may construct, acquire, operate, and maintain recycled water projects, or enter into agreements for the acquisition and sale of recycled water (or the rights to recycled water), ~~in addition to the recycled water projects funded under subsection 2.6(a).~~ Recycled water projects constructed or acquired by the Agency pursuant to this subsection shall be part of the Transmission System, and the operation and maintenance costs of such projects shall be paid from the Recycled Water/Local Supply Fund.

~~(c) — The capital cost (including Revenue Bond obligations, if any) and, if applicable, the operation and maintenance costs of recycled water projects, and the cost of acquiring recycled water or the rights thereto, shall be paid from the Recycled Water Fund. With the approval of the Water Advisory Committee, the Agency may transfer funds from the operations and maintenance fund to assist in the construction, acquisition, funding, or operation and maintenance of recycled water projects.~~